Annual Report 2007-2008: Chapter 1 - The Human Rights and Equal Opportunity Commission

Learn about the Commission's 21-year history, strategic planning initiatives, and organisational direction outlined at the 2008 planning summit.

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Summary

Chapter 1 The Human Rights and Equal Opportunity Commission

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Summary

On 14 and 15 February 2008, HREOC held a planning summit at Jones Bay Wharf, Pyrmont Point in Sydney, entitled HREOC21. The 21 refers to the number of years that have passed since HREOC was established by an act of federal Parliament in 1986.

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1.1 VISION

Human Rights: Everyone, Eeverywhere, Everyday.

1.2 MISSION

Leading the promotion and protection of human rights in Australia by:

- making human rights values part of everyday life and language;
- empowering all people to understand and exercise their human rights;
- working with individuals, community, business and government to inspire action;
- keeping government accountable to national and international human rights standards;
- securing an Australian charter of rights.

We do this by:

- listening, learning, communicating and educating;
- being open, expert, committed and impartial;
- fostering a collaborative, diverse, flexible, respectful and innovative workplace.

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1.3 HREOC21

On 14 and 15 February 2008, HREOC held a planning summit at Jones Bay Wharf, Pyrmont

planning summit at Jones Bay Wharf, Pyrmont Point in Sydney, entitled HREOC21. The 21 refers to the number of years that have passed since HREOC was established by an act of federal Parliament in 1986.

The summit was the culmination of an intensive consultation process, which involved discussions with HREOC staff and with external stakeholders, such as media, community organisations, educators and government representatives. The objective of the summit was to initiate a HREOC-wide strategic planning process by creating a refreshed vision for HREOC's future and a concrete plan of action that would make the vision happen.

********** President John von Doussa addresses staff and other attendees at the HREOC21 Summit in February 2008

The HREOC21 Summit was attended by all HREOC staff and 14 influential external participants from various stakeholder areas.

The summit methodology used the Appreciative Inquiry (AI) strengths-based approach to problem solving. This approach to strategic planning has been used successfully in hundreds of small and large organisations worldwide, including the United Nations. AI identifies the 'positive core' in people and organisations – their capacities, capabilities, resources and strengths – to arrive at positive solutions. By inquiring into success and achievements, new possibilities for change, action and innovation are created – success is replicated and there is energy for

change. This approach can be contrasted with traditional problem solving approaches which tend to focus on resolving problems and conflicts.

There are three major outcomes for HREOC as a result of the summit:

- a new vision and mission for HREOC
- a new strategic plan for HREOC
- a new 15 month full-time position to assist in the implementation of these outcomes.

A re-branding process was undertaken during the remainder of the reporting period. The new corporate image and branding will be launched during the new reporting period.

HREOC's new vision and mission appear at the beginning of this chapter.

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1.4 STRUCTURE

HREOC is a national independent statutory body established under the Human Rights and Equal Opportunity Commission Act 1986. It has a President and five Commissioners. The five positions are currently held by three persons.

1.4.1 President – The Hon. John von Doussa, QC

The Hon. John von Doussa was appointed President of the Human Rights and Equal Opportunity Commission (HREOC) on 1 May 2003 for a five year term. This appointment was extended until 8 September 2008.

At the time of his appointment he was a Judge of the Federal Court of Australia, an appointment he had held since 1988. He was also the President of the Australia Competition Tribunal, a Presidential Member of the Administrative Appeals Tribunal and an Additional Judge of the Supreme Court of the Australian Capital Territory

From 1992 until shortly before his appointment he was also a part-time Commissioner of the Australian Law Reform Commission. From 1986 to 1988 he was a Judge of the Supreme Court of South Australia.

Before his appointment as a Judge he was a Queens Counsel practising mainly in South Australia, and had served terms as the President of the Law Society of South Australia, and Vice-President of the Law Council of Australia.

In 1996 he was awarded an Honorary Doctorate of the University of South Australia in recognition of his close involvement in the organisation and provision of practical legal training for newly qualified graduates in law in South Australia.

Since 1997 he has been a member of the Court of Appeal of Vanuatu. In 2003 he was appointed a non-resident member of the Supreme Court of Fiji.

On 26 July 2004 Mr von Doussa was appointed Chancellor of the University of Adelaide.

Mr von Doussa presently represents HREOC as a member of the International Coordinating Committee of National Human Rights Institutions based in Geneva, and is Deputy Chair of the Asia Pacific Forum of National Human Rights Institutions.

Mr von Doussa was appointed Acting Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination on 4 November 2006 – an appointment extended until 9 September 2007, when the new Commissioner's term commenced.

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1.4.2 Aboriginal and Torres Strait Islander Social Justice Commissioner and Acting Race Discrimination Commissioner – Mr Tom Calma

Mr Tom Calma was appointed as the Aboriginal and Torres Strait Islander Social Justice Commissioner for a five-year term on 12 July 2004. He has been appointed Acting Race Discrimination Commissioner on an annual basis since this time.

Mr Calma is an Aboriginal elder from the Kungarakan tribal group and the Iwaidja tribal group, whose traditional lands are south west of Darwin and on the Coburg Peninsula in Northern

Territory, respectively. He has been involved in Indigenous affairs at a local, community, state, national and international level and worked in the public sector for over 35 years. Mr Calma has broad experience in public administration, particularly in Indigenous education programs, and in developing employment and training programs for Indigenous people from both a national policy and program perspective.

He served three terms as a Director of Aboriginal Hostels Ltd and as a Company Director for a private tourism and hospitality venture in the Northern Territory.

Until his appointment as Commissioner, Mr Calma managed the Community Development and Education Branch at Aboriginal and Torres Strait Islander Services (ATSIS) where he worked with remote Indigenous communities to implement community-based and community driven empowerment and participation programs. In 2003, he was Senior Adviser Indigenous Affairs to the Minister of Immigration, Multicultural and Indigenous Affairs.

From 1995-2002, he worked as a senior Australian diplomat in India and Vietnam, representing Australia's interests in education and training. During his time in India, he also oversaw the management of the Australian

international education offices in Pakistan, Nepal and Sri Lanka.

He moved to Canberra in 1992 and undertook various assignments, including Executive

Director to the Secretary and Senior Executive of the Department of Employment, Education, Training and Youth Affairs.

In the early 1980s, Mr Calma and Indigenous colleagues established the Aboriginal Task Force (ATF) at the Darwin Community College (later, the Darwin Institute of Technology), which provided second chance education programs for Indigenous people. He became a senior lecturer and head of the ATF for six years.

Mr Calma is a White Ribbon Ambassador for 2005-07 and National Patron of Wakakirri, the National Story Festival, which is Australia's largest multi arts event.

(Mr Calma was appointed as the Race Discrimination Commissioner on 2 July 2008).

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1.4.3 Human Rights Commissioner and Acting Disability Discrimination Commissioner – Mr Graeme Innes, AM

Lawyer, mediator and company director, Mr Graeme Innes was appointed as Human Rights Commissioner on 15 December 2005 for a five-year term. He has been appointed Acting Disability Discrimination Commissioner on an annual basis since this time.

A human rights practitioner for over 25 years, Mr Innes has worked in equal opportunity in NSW, WA, as well as nationally. He was Deputy Disability Discrimination Commissioner with the

Disability Discrimination Commissioner with the HREOC from 1999 to 2005.

Mr Innes has been a Member of the NSW Administrative Decisions Tribunal; the NSW Consumer, Trader and Tenancy Tribunal; the Social Security Appeals Tribunal; and a Hearing Commissioner with HREOC. He has been active in the disability field for 30 years. He was Chair of the Disability Advisory Council of Australia for four-and-a-half years.

Mr Innes was the first blind President of Royal Blind Society of NSW, and the first Chair of Vision Australia, Australia's largest national blindness agency.

Mr Innes has been one of Australia's delegates to the World Blind Union and the President of that Union's Asia Pacific region. He was also a member of the Australian delegation to the UN, which developed the Convention on the Rights of Persons with Disabilities.

Mr Innes has been a consultant to organisations such as Westpac, Qantas, and Sydney Water on disability issues and was a Councillor on Ku-ring-gai local Council.

In 1995 Mr Innes was admitted as a Member of the Order of Australia (AM) for his contribution to the development of Commonwealth disability discrimination legislation. He was a finalist for Australian of the Year in 2003.

(Mr Innes was appointed Disability Discrimination Commissioner on 2 July 2008).

1.4.4 Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination – Elizabeth Broderick (from 10 September 2007)

The Hon. John von Doussa, QC (until 9 September 2007)

Ms Elizabeth Broderick was appointed Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination on 10 September 2007 for a five year term.

Lawyer and business woman, Ms Broderick was the 2001-02 Telstra NSW Business Woman of the Year and Australian Corporate Business Woman of the Year.

Prior to her appointment as Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination, Ms Broderick was a partner at one of Australia's leading law firms, Blake Dawson, and developed the firm's business case for flexibility in the workplace.

Her efforts contributed to creating a workplace where more than 20 per cent of the law firm's workforce now uses flexible work arrangements.

She established the first Legal Technology Group within a law firm in Australia and is widely recognised as a leader in the delivery of on-line

legal services to educate individuals about the law.

More recently, she has travelled the length and breadth of Australia listening to women's and men's concerns about gender equality and age discrimination. In 2008, she was part of Australia's delegation to the United Nations for HREOC on the status of women.

Ms Broderick has developed mentoring programs for teenage girls at State High Schools in Sydney and a mentoring program for female university students.

She has a particular interest in issues related to gender equality, women in business, work and life balance and corporate social responsibility. She is a regular speaker at international and domestic conferences.

Ms Broderick is married and has two young children.

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1.5 LEGISLATION

HREOC is responsible for administering the following Acts:

- Human Rights and Equal Opportunity Commission Act 1986 (The Human Rights and Equal Opportunity Commission Act);
- Racial Discrimination Act 1975 (The Racial Discrimination Act);

- Sex Discrimination Act 1984 (The Sex Discrimination Act);
- Disability Discrimination Act 1992 (The Disability Discrimination Act); and
- Age Discrimination Act 2004 (The Age Discrimination Act).

Functions performed under these Acts are vested in HREOC as a collegiate body, in the President or individual members of HREOC or in the federal Attorney-General.

Other legislation administered through HREOC includes functions under the Native Title Act 1993, performed by the Aboriginal and Torres Strait Islander Social Justice Commissioner. The Sex Discrimination Commissioner has functions in relation to federal awards and equal pay under the Workplace Relations Act 1996.

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1.5.1 Human Rights and Equal Opportunity Commission Act

The Human Rights and Equal Opportunity Commission Act established HREOC and outlines its powers and functions. Human rights are strictly defined, and only relate to the international instruments scheduled to, or declared under, the Act.

They are the:

- International Covenant on Civil and Political Rights

- Convention on the Rights of the Child
- Declaration on the Rights of the Child
- Declaration on the Rights of Disabled Persons
- Declaration on the Rights of Mentally Retarded Persons
- Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief
- Convention Concerning Discrimination in Respect of Employment and Occupation.

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1.5.2 Racial Discrimination Act

The Racial Discrimination Act gives effect to Australia's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination.

Its main aims are to:

- promote equality before the law for all persons, regardless of their race, colour or national or ethnic origin
- make discrimination on the basis of race, colour, descent or national or ethnic origin, unlawful
- provide protection against racial hatred.

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1.5.3 Sex Discrimination Act

The Sex Discrimination Act gives effect to

Australia's obligations under the Convention on the Elimination of All Forms of Discrimination against Women and certain aspects of the International Labour Organisation (ILO) Convention 156.

Its main aims are to:

- promote equality between men and women
- eliminate discrimination on the basis of sex, marital status or pregnancy, and family responsibilities
- eliminate sexual harassment at work, in educational institutions, in the provision of goods and services, accommodation and in the delivery of Commonwealth programs.

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1.5.4 Disability Discrimination Act

The objectives of the Disability Discrimination Act are to:

- eliminate discrimination against people with disabilities as far as is possible
- promote community acceptance of the principle that people with disabilities have the same fundamental rights as all members of the community

- ensure as far as practicable that people with disabilities have the same rights to equality before the law as other people in the community.

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1.5.5 Age Discrimination Act

The objectives of the Age Discrimination Act are to:

- promote equality before the law for all persons regardless of their age
- eliminate discrimination against persons on the ground of age in many areas of public life such as employment, education and the provision of services or facilities
- change negative stereotypes about older people.

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1.6 FUNCTIONS AND POWERS

HREOC's responsibilities fall within four main areas:

- Human rights education and promotion
- Inquiring into discrimination and human rights complaints
- Human rights monitoring
- Policy development and legislative reform.

In order to fulfil its obligations, HREOC:

- Fosters public discussion, and undertakes and coordinates research and educational programs to promote human rights and eliminate discrimination in relation to all its Acts.

- Investigates complaints of alleged unlawful discrimination pursuant to the Racial Discrimination Act, the Sex Discrimination Act, Disability Discrimination Act and the Age Discrimination Act, and attempts to resolve these matters through conciliation where appropriate. The President may terminate a complaint of alleged unlawful race, sex, age or disability discrimination if, for example, there is no reasonable prospect of settling the complaint by conciliation or the complaint is lacking in substance. If a complainant, whose complaint has been terminated, wants the complaint heard and determined by the Courts they must lodge an application to the Federal Court of Australia or the Federal Magistrates Court within 28 days of a Notice of Termination issued by the President.
- Investigates acts or practices that may be contrary to a human right or that may be discriminatory pursuant to the Human Rights and Equal Opportunity Commission Act. If the complaint is unable to be resolved through conciliation and is not discontinued for other reasons the President may report on the case and make particular recommendations. The report is tabled in federal Parliament.
- May advise on legislation relating to human rights and monitor its implementation; may review existing and proposed legislation for any inconsistency with human rights or for any discriminatory provision which impairs equality of opportunity or treatment in employment or occupation; may examine any new international instruments relevant to

human rights and advise the federal government on their consistency with other international treaties or existing Australian law; and may propose laws or suggest actions the government may take on matters relating to human rights and discrimination.

In order to carry out these functions, HREOC is empowered under all its Acts (unless otherwise specified) to:

1. Refer individual complaints to the President for investigation and conciliation.
2. Report to the government on any matters arising in the course of its functions.
3. Establish advisory committees.
4. Formulate guidelines to assist in the compliance by organisations and individuals of the requirements of human rights and anti-discrimination legislation and conventions.
5. Intervene in court proceedings involving human rights matters with the permission of the Court.
6. Act as amicus curiae (friend of the court) in alleged unlawful discrimination cases that are before the Courts.
7. Grant exemptions under certain conditions (Age, Sex and Disability Discrimination Acts).
8. Conduct inquiries into issues of major importance, either on its own initiative, or at the request of the Attorney-General.
9. Examine enactments.

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1.7 SPECIFIC FUNCTIONS OF THE PRESIDENT AND COMMISSIONERS

In addition to the broad functions outlined above, the President, the Aboriginal and Torres Strait Islander Social Justice Commissioner and the Sex Discrimination Commissioner have specific responsibilities.

1.7.1 President

The President is the Chief Executive Officer of HREOC, responsible for its financial and administrative affairs. The President is also responsible for the complaint handling function of HREOC.

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1.7.2 Aboriginal and Torres Strait Islander Social Justice Commissioner

The Aboriginal and Torres Strait Islander Social Justice Commissioner, under the Human Rights and Equal Opportunity Commission Act,

prepares an annual report on the exercise and enjoyment of human rights of Indigenous people and undertakes social justice education and promotional activities.

The Commissioner also performs separate reporting functions under the Native Title Act 1993. This includes preparing an annual report on the operation of the Act and its effect on the exercise and enjoyment of human rights of Indigenous people. The Commissioner also reports, when requested by the Minister, on any other matter relating to the rights of Indigenous people under this Act.

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1.7.3 Sex Discrimination Commissioner

The Workplace Relations Act 1996 gives the Sex Discrimination Commissioner the power to initiate and refer equal pay cases to the Australian Industrial Relations Commission.

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1.7.4 Amicus Curiae

Section 46PV of the Human Rights and Equal Opportunity Commission Act gives HREOC Commissioners an amicus curiae ('friend of the court') function. The role of an amicus curiae is to provide special assistance to the court in resolving issues raised by the case and to draw attention to aspects of the case that might

otherwise have been overlooked.

Under this function, the Aboriginal and Torres Strait Islander Social Justice Commissioner, the Disability Discrimination Commissioner, the Human Rights Commissioner, the Race

Discrimination Commissioner and the Sex Discrimination Commissioner may seek the permission of the Federal Court, or Federal Magistrates Court, to assist the court as amicus curiae in the hearing of unlawful discrimination applications.

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1.8 THE MINISTER

The Attorney-General, the Honourable Robert McClelland MP, is the Minister responsible in Parliament for HREOC. He has a number of powers under the Human Rights and Equal Opportunity Commission Act 1986.

The most significant are:

- to make, vary or revoke an arrangement with states or territories for the performance of functions relating to human rights or to discrimination in employment or occupation
- to declare, after consultation with the states, an international instrument to be one relating to human rights and freedoms for the purposes of the Act
- to establish an advisory committee (or committees) to advise HREOC in relation to the performance of its functions. HREOC will,

  at his request, report to him on Australia's compliance with International Labour Organisation Convention 111 and advise him on national policies relating to equality of opportunity and treatment in employment

and occupation.

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1.9 OUTCOME STRUCTURE

HREOC has one outcome:

An Australian society in which the human rights of all are respected, protected and promoted.

There is one output for the HREOC's outcome:

Australians have access to independent human rights complaint handling and public inquiries processes and benefit from human rights education, promotion and monitoring and compliance activities.

Table 1: Resources for outcomes

	Budget 2007-08 000	Actual Expenses 2007-08 000	Budget 2008-09 000
Total Administered Expenses	-	-	-
Price of Department Outputs	18,575	19,788	17,144
Output Group 11 - Australians			

1.1 Australians have access to independent human rights complaint handling and public inquiry processes and benefit from human rights education, promotion and monitoring and compliance activities.	18,575	19,788	17,144
Subtotal Output Group 1.1	18,575	19,788	17,144
Revenue from Government (Appropriation) for Departmental Outputs	14,981	14,981	13,550
Revenue from other sources	3,594	4,604	3,594
Cash reserves applied to a revenue deficiency	-	203	-
Total Price of Outputs	18,575	19,788	17,144
Total for Outcome 1 (Total Price of			

Outputs and Administered Expenses)	18,575	19,788	17,144

	Actual 2007-08	Estimated Actual 2008-09
Staff years (number)	116	99

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